

IN THE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|---|---|-----------------------|
| Christopher Prosser, individually and |) | |
| on behalf of all others similarly situated, |) | |
| |) | |
| Plaintiffs. |) | |
| |) | |
| Vs. |) | No. 4:23-cv-00124 MTS |
| |) | |
| USHealth Advisors, LLC, and |) | |
| John and Jane Does 1 through 50 |) | |
| Call Center Telemarketers/Agents |) | |
| |) | JURY TRIAL DEMANDED |
| Defendants. |) | |

JOINT PROPOSED SCHEDULING PLAN

Plaintiff Christopher Prosser and Defendant USHealth Advisors, LLC submit the following joint proposed scheduling plan pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Rule 5.01 of the Local Rules of the United States District Court for the Eastern District of Missouri, and the Court's August 10, 2023 Order Setting Rule 16 Conference (Dkt. 74):

1. **Track Assignment:** The Parties agree that the Track 2: Standard assignment is appropriate based on the filing date of the operative complaint (the Third Amended Complaint) on July 12, 2023.
2. **Discovery Plan:**
 - A. **Initial Disclosures:** The parties will exchange initial disclosures on or by September 29, 2023.¹
 - B. **Completion of Discovery, and Phasing of Discovery:** The parties agree

¹ Plaintiff provided his initial disclosures to Defendants Counsel on August 28, 2023.

that a single phase of discovery is appropriate and propose that all discovery be completed by May 1, 2024.

C. Disclosure, Discovery, or Preservation of Electronically Stored

Information: The parties do not anticipate any issues regarding electronically stored information.

D. Claims of Privilege or of Protection as Trial Preparation Materials:

The parties do not anticipate any issues regarding claims of privilege or work product protection. The parties have not yet reached agreement on a procedure to assert claims of privilege or work product after production but will continue to discuss this issue as discovery proceeds.

E. Limitations of Discovery: The parties do not believe, at this time, that any changes should be made to the limitations on discovery imposed under the Federal Rules or Local Rules.

F. Other Rule 16(b), 16(c), or 26(c) Orders: The Parties anticipate that they will require a Protective Order to limit the dissemination of confidential, proprietary and/or trade secret materials in this litigation. The Parties agree to work in good faith to submit a proposed Protective Order for entry by the Court before discovery is exchanged.

3. Likelihood of Settlement: The parties agree to engage in good faith settlement discussions at the appropriate time and will participate in mediation in an effort to compromise or resolve the case.

4. Likelihood of Appearance of Additional Parties: At this stage, neither party anticipates the appearance in this action of additional parties.

5. Proposed Deadlines:

| EVENT | PROPOSED DEADLINE |
|--|---|
| Joinder of any additional parties and amendment of pleadings | September 15, 2023 |
| Mediator selection and scheduling | Mediator selection and scheduling by November 30, 2023, and that mediation be concluded by February 1, 2023 |
| Motion for Class Certification shall be filed by | January 1, 2024 |
| Response to Motion for Class Certification shall be filed by | February 15, 2024 |
| Reply to Motion for Class Certification | February 29, 2024 |
| Plaintiff(s) shall disclose experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) | January 25, 2024 |
| Defendant(s) shall disclose experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) | March 9, 2024 |
| Exchange of rebuttal expert witness summaries and reports as required by Fed. R. Civ. P. 26(a)(2) | March 21, 2024 |
| Fact discovery shall be completed | April 27, 2024 |
| Expert discovery shall be completed | May 1, 2024 |
| Dispositive motions, including summary judgment and <i>Daubert</i> , shall be filed by | May 31, 2024 |
| All pretrial motions and memoranda of law, including motions in limine, shall be filed by | June 30, 2024 |
| Joint pretrial stipulation, deposition designations and counter-designations, proposed joint jury instructions, proposed joint verdict form, and/or proposed findings of fact and conclusions of law shall be filed by | July 30, 2024 |
| Final Pretrial Conference | August 30, 2023 |

6. Limits on Depositions and Interrogatories: The Parties agree that the presumptive limit of ten depositions per side and twenty-five interrogatories per party should apply in this case.

7. Proposals for the Formulation and Simplification of Issues: The parties agree to work together in good faith to simplify the issues presented for the Court's

determination.

8. **Amendments to the Pleadings:** Plaintiff does not anticipate a need to further amend the complaint unless other complicit parties are identified.

9. **Possibility of Obtaining Admissions of Fact and of Evidence and Need for Advance Rulings from the Court on Admissibility of Evidence:** The parties have agreed to discuss obtaining admissions of fact and of evidence during the discovery process, and, if they are not able to reach agreements regarding admissions of fact and of evidence, they may ultimately require advance rulings from the Court on the admissibility of evidence.

10. **Suggestions for the Avoidance of Unnecessary Proof and of Cumulative Evidence:**
The parties agree that such issues can be disposed of by motions in limine and/or other pretrial motions and stipulations regarding undisputed facts and the authenticity of documents whose authenticity is not in dispute.

11. **Referral to a Magistrate:** Declined.

12. **Preliminary Estimate of Time Required for Trial:** 5 days.

13. **Proposed Pre-Trial Conference and Trial Dates:**

| EVENT | PROPOSED DATE |
|---------------------------|--------------------|
| Final Pretrial Conference | August 30, 2024 |
| Calendar Call | September 21, 2024 |
| Trial | September 21, 2024 |

DATED this 25th day of August, 2023. Respectfully submitted,

/s/Edwin V. Butler

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Attorneys for Defendants

Certificate of Service

I hereby certify that the above and foregoing Plaintiffs Rule 26 report draft was served electronically this 25th day of August 2023, on the Attorneys of record for the Defendants: rberry@berrysilberberg.com, dbell@berrysilberberg.com, kamundson@berrysilberberg.com, dbaxter@berrysilberberg.com, dbell@berrysilberberg.com, tloose@gibsondunn.com.

/s/Edwin V. Butler
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